

REMARKS

Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks. Claims 1-24 remain pending. Claims 1, 3, 5, and 13 are independent.

ALLOWABLE SUBJECT MATTER

Applicants appreciate that claims 2, 4, 10-11, 18-19, and 21-24 are indicated to define allowable subject matter.

SCOPE OF CLAIMS NOT ALTERED

Claims have been amended merely to address informal issues and to enhance clarity. More specifically, claims 1 and 3 have amended merely to correct antecedent basis errors, and claim 12 has been amended to correct for minor grammar errors. The scopes of the claims have not been altered.

§ 103 REJECTION - KOUZAKI, ESCHBACH

Claims 1, 3, 5-7, 12-15, and 20 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kouzaki et al. (USPN 5,999,279, hereinafter "Kouzaki") in view of Eschbach

et al. (USPN 5,450,217, hereinafter "Eschbach"). Applicant respectfully traverses.

For a Section 103 rejection to be proper, a *prima facie* case of obviousness must be established. See *M.P.E.P.* 2142. One requirement to establish *prima facie* case of obviousness is that the prior art references, when combined, must teach or suggest all claim limitations. See *M.P.E.P.* 2142; *M.P.E.P.* 706.02(j). Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

In this instance, independent claim 1 recites, in part, "adjusting the brightness of the image ... based on the average brightness of the image." Independent claims 3, 5, and 13 recite similar feature. Contrary to the Examiner's assertion, Kouzaki may not be relied upon to teach or suggest at least this feature.

In the February 13th Office Action, Examiner relied upon the following portions of Kouzaki - column 7, line 16 - column 8, line 34; column 10, lines 17-65; and column 11, line 29 - column 12, line 26. See *February 13th Office Action*, page 3, item 4, 3rd paragraph.

In column 7, line 16 - column 8, line 34, Kouzaki merely discloses that a lightness value V of individual pixels (along with hue value H^* and saturation value C^*) is generated from the reflectance data R , G , B of the pixels; specific color region of the pixel is determined based on the H^* , V , and C^* values; and whether the pixel belongs to a uniform density region or to an edge portion (based on the first differential data of V) is determined.

Regarding column 10, lines 17-65, Kouzaki merely discloses alternate means to determine the color region of a pixel of interest. For example, the color region of the pixel of interest can be determined based on average values of the pixel and the periphery pixels near the pixel of interest. As another example, the RGB data may be alternatively converted to CIELAB or to CIELUV color space.

Regarding column 11, line 29 - column 12, line 26, Kouzaki merely discloses alternate means to perform smoothing of a pixel when required (for example, when the pixel is determined to be a part of a uniform density region and a skin color region, see *Kouzaki, Figure 9*). Kouzaki discloses that instead of smoothing the pixel based on all peripheral pixels, some of the peripheral pixels may be dropped if it is determined that the peripheral

pixel is noisy. A peripheral pixel may be determined to be noisy if its data values are substantially different from the data values of the pixel of interest. See *Kouzaki*, column 11, line 52 - column 12, line 13. Then the pixels that are not determined to be noisy are averaged and the average (or mean) CMYK (cyan, magenta, yellow, black) data values are determined to be the CMYK data values of the pixel.

However, Kouzaki specifically state that the mean value of **density data** of the selected pixels is determined and used as the density data of the central pixel. See *Kouzaki*, column 11, lines 42-44. In other words, the lightness value V is **not used** to obtain the average brightness of the image. The lightness value V is used only in determining the pixels to be extracted to obtain the mean value of the density data. See *Kouzaki*, column 11, lines 37-42.

Since average lightness value is **not** obtained in Kouzaki, which is contrary to the Examiner's assertion, Kouzaki cannot be relied upon to teach or suggest obtaining the average brightness of the image. Then it naturally follows that Kouzaki cannot be relied upon to teach or suggest "adjusting the brightness of the image ... based on the average brightness of the image" as recited in the independent claims.

Eschbach has not been, and indeed cannot be, relied upon to correct for at least the above-noted deficiency of Kouzaki. Therefore, independent claims 1, 3, 5, and 13 are distinguishable over the combination of Kouzaki and Eschbach.

Claims 6-7, 12, 14-15, and 20 depend from independent claim 5 or 13, directly or indirectly. Therefore, for at least the reasons stated with respect to independent claim 5 or 13 as well as on their own merits, these dependent claims are also distinguishable over the combination of Kouzaki and Eschbach.

Applicant respectfully requests that the rejection of claims 1, 3, 5-7, 12-15, and 20 based on Kouzaki and Eschbach be withdrawn.

§ 103 REJECTION - KOUZAKI, ESCHBACH, CONVENTIONAL ART

Claims 8-9 and 16-17 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kouzaki in view of Eschbach and in further view of the conventional art described in the present specification. See *February 13th Office Action*, page 7, item 5. Applicant respectfully traverses.

It has clearly been demonstrated above that independent claims 5 and 13 are distinguishable over the combination of Kouzaki and Eschbach. The conventional art has not been, and

indeed cannot be, relied upon to correct for at least the above-noted deficiencies of Kouzaki and Eschbach. Therefore, independent claims 5 and 13 are distinguishable over the combination of Kouzaki, Eschbach, and the conventional art.

Claims 8-9 and 16-17 depend from independent claim 5 or 13, directly or indirectly. Therefore, for at least the reasons stated with respect to independent claim 5 or 13 as well as on their own merits, these dependent claims are also distinguishable over the combination of Kouzaki, Eschbach, and the conventional art.

Applicant respectfully requests that the rejection of claims 8-9 and 16-17 based on Kouzaki, Eschbach, and the conventional art be withdrawn.

CONCLUSION

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Should there be any outstanding matters that need to be resolved, the Examiner is respectfully requested to contact Hyung Sohn (Reg. No. 44,346), to conduct an interview in an effort to expedite prosecution in connection with the present application.

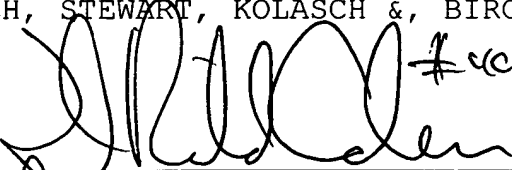
Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) respectfully petition(s) for a one (1) month extension of time for filing a reply in connection with the present application, and the required fee is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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